

**4-26-101. Failure to close entrance to enclosure -- Class C misdemeanor -- Damages.**

A person who willfully throws down a fence or opens bars or gates into any enclosure other than the person's own enclosure or into any enclosure jointly owned or occupied by such person and others, and leaves it open is guilty of a class C misdemeanor, and is liable in damage for any injury sustained by any person as a result of such an act.

Renumbered and Amended by Chapter 331, 2012 General Session

**4-26-102. Adjoining landowners -- Partition fences -- Contribution.**

(1) If two or more persons agree to a fence enclosure or to the construction of a partition fence, the cost of construction and maintenance of the fence shall be apportioned between each party to the agreement based upon the amount of land enclosed.

(2) A person who is a party to an agreement described in Subsection (1) and who fails to maintain such person's part of the fence is liable in a civil action for any damage sustained by another party to the agreement as a result of the failure to maintain the fence.

(3) If a person has enclosed land with a fence and the owner of adjoining land desires to enclose land adjoining the fence so that the existing fence or any part of it will become a partition fence between such tracts of land, the owner of the adjoining land shall, before making the enclosure, pay to the owner of the existing fence one-half of the value of all that part of the fence that will become a partition fence; and when one party ceases to improve or cultivate his land or opens his enclosure he may not take away any part of the partition fence belonging to him, if the owner or occupant of the adjoining enclosure within 30 days after notice, pays for the value of such fence; nor shall the partition fence be removed if the crops enclosed by it will be exposed to injury.

Renumbered and Amended by Chapter 331, 2012 General Session

**4-26-103. Definitions -- Qualified landowners' and qualified adjoining landowners' partition fences -- Contribution -- Civil action for damages.**

(1) As used in this section:

(a) "Qualified adjoining landowner" means a private landowner whose land adjoins the land of a qualified landowner and is used for grazing livestock or as habitat for big game wildlife and:

(i) is land which qualifies under the definition of "conservation easement" as defined in Section 57-18-2, under Title 57, Chapter 18, Land Conservation Easement Act; or

(ii) is "land in agricultural use" that meets the requirements of Section 59-2-502.

(b) "Qualified landowner" means a private landowner whose land is used for grazing livestock and:

(i) is land which qualifies under the definition of "conservation easement" as defined in Section 57-18-2, under Title 57, Chapter 18, Land Conservation Easement Act; or

(ii) is "land in agricultural use" that meets the requirements of Section 59-2-502.

(2) A qualified landowner may require the qualified adjoining landowner to pay for one-half of the cost of the fence if:

(a) the fence is or becomes a partition fence separating the qualified landowner's land from that belonging to the qualified adjoining landowner;

(b) the cost is reasonable for that type of fence;

(c) that type of fence is commonly found in that particular area; and

(d) the construction of the fence is no more expensive than the cost for posts, wire, and connectors.

(3) If the qualified adjoining landowner refuses, the qualified landowner may maintain a civil action against the qualified adjoining landowner for one-half of the cost of that portion of the fence.

(4) The cost of the maintenance of the fence shall also be apportioned between each party based on the amount of land enclosed. A party who fails to maintain that party's part of the fence is also liable in a civil action for any damage sustained by the other party as a result of the failure to maintain the fence.

Renumbered and Amended by Chapter 331, 2012 General Session